



Patent
Serial No. 10/069,100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Group Art Unit: 2617

MARTIN P. USHER ET AL

Examiner: Kiet M. Doan

Serial No.: 10/069,100

Filed: October 21, 2002

For: COMMUNICATION BETWEEN A
FIXED NETWORK AND A MOVABLE
NETWORK WITH MEANS FOR
SUSPENDING OPERATION OF THE
MOVABLE NETWORK

APPEAL BRIEF

Commissioner of Patents
Customer Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Dear Sir:

Further to applicant's Notice of Appeal filed on October 18, 2006, herein follows

Applicant's Appeal Brief for the above-captioned case.

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I. REAL PARTY IN INTEREST

Stratos Global Ltd., 3 Finsbury Square Moorgate, London, UK, whose ownership interest appears in an Assignment recorded March 20, 2003 at Reel 013491, Frame 0948.

II. RELATED APPEALS AND INTERFERENCES

There is no pending appeal or interference or judicial proceeding known to appellants, the assignee or to the undersigned that may be related to, directly affect, or be directly affected by, or have a bearing on the Board's decision in this case.

III. STATUS OF CLAIMS

The application was originally filed with eight (8) claims. A Preliminary Amendment was filed on February 22, 2002 cancelling all claims and adding new claims 9-16.

An Amendment under 37 C.F.R. § 1.111 was filed on December 9, 2004 in response to an Office Action mailed September 28, 2004 in which claims 9, 10, 13 and 16 were amended. An Amendment under 37 C.F.R. § 1.116 was filed on May 25, 2005 in response to an Office Action mailed May 17, 2005, in which no claims were amended and claims 17 and 18 were added; the corresponding amendments were entered by Request for Continued Examination filed on July 22, 2005. Applicants filed an Amendment under 37 C.F.R. § 1.111 on October 19, 2005 in response to an Office Action mailed September 27, 2005 in which no claims were amended. Applicants filed an Amendment under 37 C.F.R. § 1.112 on January 3, 2006 in response to an Office Action mailed December 21, 2005, in which no claims were amended. Applicants filed an Amendment under 37 C.F.R. § 1.112 on March 16, 2006 in response to an Office Action mailed March 1, 2006 in which claims 9-11 and 13 were amended. Applicants filed an

Amendment under 37 C.F.R. §1.116 on April 17, 2006 in response to an Office Action mailed May 30, 2006 in which no claims were amended.

Claims 9-18 are currently pending. Claims 9, 10, 12, 13, 15 and 16 remain rejected pursuant to an Advisory Action dated September 20, 2006. Claims 17 and 18 have been allowed while claims 11 and 14 have been indicated as containing allowable subject matter. Thus, the claims on appeal are claims 9, 10, 12, 13, 15 and 16, the text of each of which appears in the Appendix attached to this Brief.

IV. STATUS OF AMENDMENTS

As indicated in part III above, all of Applicants' amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter of the claims on appeal is a method for facilitating telephone related traffic between a fixed system and a moveable system aboard a vehicle. By way of non-limiting summary, a ground-based host node is configured to forward incoming calls from the fixed cellular network to a plurality of users through the moveable network and to forward outgoing calls from the plurality of users. The forwarding of incoming calls to the plurality of users is simultaneously suspended in response to a control signal. However, the suspending forwarding incoming calls does not disconnect a call in progress between any of the plurality of users and the fixed network. See, for example, Fig. 19, and the specification at page 35, line 3, through page 36, line 3.

VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

The final Office Action mailed May 30, 2006 stated the following rejections:

1. Claims 9 and 13 have been rejected under 35 U.S.C. § 112 for lack of support in the specification for the recitation of “simultaneously suspending.”
2. Claims 9, 10, 12, 13, 15 and 16 under 35 U.S.C. § 103 as obvious over Zicker in view of McConnell et al. (“McConnell”).

Applicant requests review and reversal of the rejection of all claims 9, 10, 12, 13, 15 and 16.

VII. ARGUMENT

- A. The Application Clearly discloses “Simultaneously Suspending” as recited in claims 9 and 13, such that the rejection under 35 U.S.C. § 112 is improper.

The invention of claims 9 and 13 is generally related to a call routing methodology to get calls to vehicles (e.g., aircraft) as they move. More specifically, these claims related to allowing the aircraft to essentially disable that routing methodology to prevent any further incoming calls. However, the disabling mechanism only applied to incoming calls, and thus does not effect a call in progress. This is shown, e.g., generally at page 35 of the application.

Claim 9 recites the method step of “simultaneously suspending, in response to a control signal, forwarding incoming calls to the plurality of users.” Claim 13 recites a ground station “configured to at least temporarily simultaneously discontinue, in response to a control signal, forwarding incoming calls to the plurality of users.” In both cases, the claim language reflects the deactivation of the routing methodology that would otherwise route the incoming calls to the vehicle.

The noted disclosure on page 35 fully supports this claim language. Lines 14-16 specifically describe how the signal causes the system to “invoke a call failure mode for any call directed to the onboard system” (emphasis added). By definition, this call failure mode for any call deactivation will “simultaneously” prevent incoming calls from reaching any and all of the plurality of users on the aircraft by disabling the routing methodology. The recitations in claims 9 and 13 of “simultaneously suspending” and “simultaneously discontinuing” are thus fully supported by the teachings of the application.

Both the Office Action of May 30, 2006 (which originally raised the rejection) and the Advisory Action of September 20, 2006 fail to provide any reason or basis to the contrary. The Examination only provides a one sentence conclusion that the text in the specification does not support the claim language. No explanation is provided to why, and the Examiner does not even respond to the Applicants’ arguments on this point as were advanced in the Amendment under 35 U.S.C. § 1.116 of August 17, 2006. Applicants submit that there is no valid reply that can be made, as the claims are clearly supported by the noted disclosure.

B. The Rejected Claims are Patentably Distinct over the § 103 Combination of Zicker and McConnell.

1. Claims 9 and 13

The Office Action rejects independent claims 9 and 13 under 35 U.S.C. § 103 as obvious over Zicker in view of McConnell et al. (“McConnell”). Applicants request reversal of this rejection.

Claim 9 as amended recites “simultaneously suspending, in response to a control signal, forwarding incoming calls to the plurality of user.” Claim 13 similarly recites that the “ground station being configured to at least temporarily simultaneously discontinue, in response to a control signal, forwarding incoming calls to the plurality of users.” As the Office Action

concedes, the primary Zicker reference does not teach or suggest any suspension of incoming calls, let alone a simultaneous suspension of incoming calls.

To provide what is lacking from Zicker, the Office Action turns to McConnell, arguing that it teaches simultaneous suspension of incoming calls to a plurality of users. Applicants disagree. McConnell clearly discloses that its suspension is based on individual calls on a call by call basis:

When a call is received at the PBX 12 for the customer from one of the other PBX extensions or a phone not serviced by the PBX, the PBX initially suspends the call as depicted in steps 400, 402. The PBX then determines whether the landline extension associated with the incoming call can receive the call (i.e., whether the line is busy) as depicted in step 404. At the same time or subsequently, the PBX triggers the interface assembly 18 to determine whether the dialed number corresponds to a person who has been assigned a mobile phone as depicted in step 406.

McConnell, column 7, lines 15-24 (emphasis added). The above teachings of McConnell, which appear under the heading “Operation” makes it perfectly clear that McConnell’s “suspension” applies to an individual incoming call directed to a single dialed number that corresponds to a single person. Nothing in McConnell teaches or suggests that the above suspension of an individual call will also suspend incoming calls for any other users on the system. Indeed, it makes no sense for it to do so.

A simple example demonstrates how the combination of Zicker and McConnell fails to teach or suggest the claimed invention. Suppose that there are seven users aboard an aircraft, and three have calls in progress. According to the invention of claim 9, in response to the control signal the system will simultaneously stop sending any further incoming calls to the seven users. But the suspension of the incoming calls does not affect any of the three calls in progress. In contrast, the combination of Zicker and McConnell would at best suspend a single call in progress while the system checks whether the particular user is available. It would have

no effect on the other six users' ability to receive incoming calls on board the vehicle. There would, quite simply, not be any simultaneous suspension of incoming calls to all of the plurality of users, as recited in claim 9.

McConnell thus teaches a system will temporarily suspend an individual incoming call while the system determines whether the line for the called party is available. McConnell does not teach or suggest a simultaneous suspension of all incoming calls to a plurality of users. Indeed, simultaneous suspension would have no purpose or effect in the McConnell system, either alone or in combination with Zicker. It would amount to an effective shutdown of the entire McConnell system, which would most certainly affect calls in progress in contravention of the language of claims 9 and 13.

Accordingly the proposed combination of Zicker and McConnell fails to teach every limitation of claims 9 and 13, and fails to provide suggestion or motivation to modify their teachings to meet these limitations. Withdrawal of the rejection and allowance of the same are therefore respectfully requested.

Claims 10, 12 and 15, which depend from the above-noted independent claims (either directly or through intervening claims) have also been rejected under 35 U.S.C. § 103 as obvious over Zicker in view of McConnell. In view of at least the reasons discussed above, these dependent claims are likewise believed patentably distinct over the applied art. Withdrawal of the rejection and allowance of the same is therefore respectfully requested.

Applicants note that the same argument was advanced to the Examiner in the Amendment under 37 C.F.R. § 1.116 of August 17, 2006. However, the Advisory Action of September 20, 2006 upon which this appeal is based simply does not address this point, and thus the Examiner has provided no rationale as to why the above noted distinguishing features do not render claims 9 and 13 patentably distinct over the applied art. Applicants submit that no such

legitimate rationale exists, and that claims 9 and 13 are patentably distinct over the applied art. Reversal of the rejection is therefore respectfully requested.

Claims 10, 12 and 15, which depend from the above-noted independent claims (either directly or through intervening claims) have also been rejected under 35 U.S.C. § 103 as obvious over Zicker in view of McConnell. Claims 10, 12 and 15 rise and fall with the status of claims 9 or 13 (based on dependency). In view of at least the reasons discussed above, these independent claims are likewise believed patentably distinct over the applied art.

2. Claim 16

The Office Action rejects independent claim 16 under 35 U.S.C. § 103 as obvious over Zicker in view of McConnell. Applicants request reversal of the objections..

Claim 16 recites “sending a control signal representing a request for the ground-based network to discontinue forwarding incoming calls to the vehicle.” This feature if neither taught nor suggested by the combination of references applied by the Examiner.

As set forth in more detail above, McConnell teaches suspending incoming calls to individual users on a call-by-call basis, not the wholesale suspension of calls to an entire vehicle. Even if Zicker and McConnell were properly combined, the resulting system would simply suspend individual incoming calls on a call-by-call basis to individuals aboard the vehicle while the system checked to determine if the called party was available. It would not result in the wholesale discontinuation of incoming calls being sent to the vehicle. Claim 16 is thus patentably distinct over the applied combination

Once again, the Examiner fails to provide any rationale to the contrary. The Office Action and advisory action simply declare that the claim language can be found somewhere in McConnell at column 2, lines 40-56, column 7, lines 7-41, and Fig. 4. Applicants have reviewed those sections and find no support for the Examiner’s contention; to the contrary, these sections

discuss suspending calls to individuals in a hotel, not wholesale suspension of incoming calls to the hotel itself (the “vehicle” under the Examiner’s proposed combination).

Accordingly, the teachings of McConnell, either alone or taken with Zicker, thus fail to either anticipate or render obvious the subject matter of claim 16. Reversal of the rejection is therefore requested.

VIII. CONCLUSION

As demonstrated above herein, the Zicker and McConnell references are inadequate, individually and collectively, as bases for rejection of any of Appellants' independent claims 9, 13 and 16. Claims 9 and 13 are also supported by the specification. Therefore, reversal of the stated rejections of those claims, and allowance of all claims are respectfully requested.

The PTO is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (Order No. 11696.4009).

Respectfully submitted,

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APPENDIX

CLAIMS ON APPEAL

9. A method for facilitating telephone traffic between a fixed cellular network and a movable network aboard a vehicle, comprising:

configuring a ground-based host node to forward incoming calls from the fixed cellular network to a plurality of users through the moveable network, and to forward outgoing calls from the plurality of users;

simultaneously suspending, in response to a control signal, forwarding incoming calls to the plurality of users;

wherein said suspending forwarding incoming calls does not disconnect a calls in progress between any of the plurality of users and the fixed network.

10. The method of claim 9, wherein said configuring comprises registering routing information for a telecommunications device associated with ~~user~~ each of the plurality of users aboard the vehicle.

11. The method of claim 10, wherein said registering comprises:
modifying an individual user cellular divert on busy instructions to the device aboard the vehicle; and

setting a status of the individual user's cellular telephone to busy regardless of the actual operating state of the user's cellular telephone.

12. The method of claim 10, wherein said suspending incoming calls comprises de-registering the routing information.

13. A ground-based host node configured to facilitate telephone traffic between a fixed cellular network and a movable network aboard a vehicle, comprising:

a ground station configured to, in response to a user registration aboard a vehicle, forward incoming calls from the fixed cellular network to a user through the moveable network, and to forward outgoing calls from the user to the fixed network, said user being part of a plurality of users;

the ground station being configured to at least temporarily simultaneously discontinue, in response to a control signal, forwarding incoming calls to the plurality of users.

wherein the discontinuation in response to said control signal does not affect any call in progress between any of the plurality of users and the fixed network.

14. The ground-based host node of claim 13, wherein said ground station responds to said user registration by modifying the user cellular divert on busy instructions to identify a registered location of the user aboard a vehicle and setting a status of the user's cellular telephone to busy regardless of the actual operating state of the user's cellular telephone.

15. The ground-based host node of claim 13, wherein said ground station discontinues forwarding incoming calls by de-registering routing information for a telecommunications device associated with the user aboard the vehicle.

16. A method for facilitating telephone traffic between a ground-based cellular network and a movable network aboard a vehicle, comprising:

sending registration information of a user aboard the vehicle to the ground-based cellular network, such that the user can receive incoming calls and place outgoing calls from the vehicle consistent with the user's preexisting cellular telephone account;

sending a control signal representing a request for the ground-based network to discontinue forwarding incoming calls to the vehicle;

wherein said control signal does not affect a call in progress between the user and the fixed network.

17. A method for facilitating telephone traffic between a fixed cellular network and a movable network aboard a vehicle, comprising:

configuring a ground-based host node to forward incoming calls from the fixed cellular network to a user through the moveable network, and to forward outgoing calls from the user, said configuring comprising modifying user cellular divert on busy instructions to the device aboard the vehicle and setting a status of the user's cellular telephone to busy regardless of the actual operating state of the user's cellular telephone;

suspending, in response to a control signal, forwarding incoming calls to the user;

wherein said suspending forwarding incoming calls does not disconnect a call in progress between the user and the fixed network.

18. A ground-based host node configured to facilitate telephone traffic between a fixed cellular network and a movable network aboard a vehicle, comprising:

a ground station configured to, in response to a user registration aboard a vehicle, forward incoming calls from the fixed cellular network to a user through the moveable network, and to forward outgoing calls from the user to the fixed network; and

the ground station being configured to at least temporarily discontinue, in response to a control signal, forwarding incoming calls to the user;

wherein the discontinuation in response to said control signal does not affect a call in progress between the user and the fixed network; and

wherein said ground station responds to said user registration by modifying the user cellular divert on busy instructions to identify a registered location of the user aboard a vehicle and setting a status of the user's cellular telephone to busy regardless of the actual operating state of the user's cellular telephone.

EVIDENCE APPENDIX

No evidence was submitted in this application pursuant to any of 37 C.F.R. §§ 1.130, 1.131, or 1.132.

RELATED PROCEEDINGS APPENDIX

As stated in part II of this brief, none.